

**Defendant.**

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**CIVIL ACTION NUMBER:  
JURY TRIAL DEMANDED**

## COMPLAINT

This is an action brought by the Plaintiff, LaShandra Prince for Defendant’s violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (hereinafter “TCPA”).

## JURISDICTION AND VENUE

This Court has federal question jurisdiction under 47 U.S.C. § 227. Venue is proper in that at all relevant times the Defendant transacted business in this district, and the Plaintiff resides in this district.

## STATEMENT OF THE PARTIES

1. Plaintiff, LaShandra Prince, is over the age of nineteen (19) years and is a resident of the city of Livingston in Sumter County, Alabama.

2. Defendant Midland Funding, LLC is and at all pertinent times herein was, a foreign corporation or other legal entity organized under the laws of the State of Delaware with its principal place of business in San Diego, California.
3. All events herein occurred in Sumter County, Alabama.

## **STATEMENT OF FACTS**

### ***Background***

4. The Defendant uses telephone communications in its business.
5. Since at least 2006 and through 2014, Defendant has repeatedly placed many calls to cellular telephone numbers belonging to the Plaintiff using an autodialer.
6. The Defendant left messages on the Plaintiff's cellular telephone voice mail that were pre-recorded messages in an attempt to collect alleged debts owed by the Plaintiff to Defendant.
7. Without the Plaintiff's express consent or after that consent was revoked, the Defendant placed telephone calls to her cellular telephone by use of an automatic telephone dialing system and/or the use of an artificial or pre-recorded voice in violation of 47 U.S.C. § 227 (b)(1)(A).

8. None of Defendant's telephone calls placed to the Plaintiff were for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(I).
9. The Defendant called and left messages on numbers that were assigned to a cellular or wireless telephone service for which the Plaintiff incurs a charge for incoming calls pursuant to 47 U.S.C. § 227(b)(1).
10. The wrongful actions of the Defendant were done willingly and knowingly.
11. Plaintiff's claims were included in a class action styled *In re: Midland Credit Management, Inc. Telephone Consumer Protection Act Litigation*, United States District Court for the Southern District of California, Case No. 11-MD-2286 MMA (MDD).
12. The settlement class included "All persons who were called on a cellular telephone by Defendants or their subsidiaries, affiliates or related companies in connection with the collection of an alleged debt using a dialer or by artificial or prerecorded voice message without prior express consent during the period from November 2, 2006 through August 31, 2014, inclusive."
12. Pursuant to the terms of the settlement of that class action, Plaintiff

was provided an opt out notice that required her to opt out of the proposed settlement by correspondence postmarked April 22, 2016.

13. Plaintiff opted out of the proposed settlement by correspondence postmarked April 21, 2016 and sent via certified mail. That opt out notice was received by the party designated to receive such opt out notices. As such, Plaintiff has opted out of the proposed settlement and may pursue her claims against the Defendant.

**COUNT ONE**  
**NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER**  
**PROTECTION ACT**

14. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
15. The foregoing acts and omissions of Defendant Midland and its subsidiaries, affiliates or related companies in connection with the collection of an alleged debt using a dialer or by artificial or prerecorded voice message without prior express consent constitute numerous and multiple negligent violations of the TCPA, including but not limited to each of the above-cited provisions of 47 U.S.C. § 227 *et seq.*
16. As a result of the Defendant's negligent violations of 47 U.S.C. § 227

*et seq.* the Plaintiff is entitled to an award of \$500.00 in statutory damages for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

**COUNT TWO**  
**KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE**  
**CONSUMER PROTECTION ACT**

17. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
18. The foregoing acts and omissions of Defendant Midland and its subsidiaries, affiliates or related companies in connection with the collection of an alleged debt using a dialer or by artificial or prerecorded voice message without prior express consent constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each of the above-cited provisions of 47 U.S.C. § 227 *et seq.*
19. As a result of the Defendant's knowing and/or willful violations of 47 U.S.C. § 227 *et seq.*, the Plaintiff is entitled to treble damages, as provided by statute, up to \$1,500.00, for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

**RELIEF SOUGHT BY PLAINTIFF**

**WHEREFORE, PREMISES CONSIDERED**, the Plaintiff demands judgment against the Defendant as follows:

- A. Declaratory judgment that the Defendant's conduct violated the TCPA.
- B. Statutory damages from the Defendant for its negligent or willful violations of the TCPA.
- C. Such other relief as this Court deems proper.

**PLAINTIFF DEMANDS A TRIAL BY STRUCK JURY**

/s/ W. Whitney Seals  
W. WHITNEY SEALS,  
Attorney for Plaintiff

**OF COUNSEL:**

**PATE & COCHRAN, L.L.P.**  
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**PLAINTIFF'S ADDRESS:**  
LaShandra Prince

P.O. Box 549  
Livingston, AL 35470

**PLEASE SERVE THE DEFENDANT BY CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED TO THE FOLLOWING  
ADDRESS:**

**MIDLAND FUNDING, LLC**  
c/o Registered Agent  
CSC Lawyers Incorporating Service, Inc.  
150 South Perry Street  
Montgomery, AL 36104